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Steven M. McHugh  
BROWN, RUDNICK, BERLACK & ISRAELS, LLP.  
BOX IP, 18TH FLOOR  
ONE FINANCIAL CENTER  
BOSTON, MA 02111

**MAILED**

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GROUP

In re Application of : DECISION ACCEPTING NOTICE OF  
ENGELHARDT, JOHANN : APPEAL  
Application No. 09/681,008 :  
Filed: November 15, 2000 :  
For: APPARATUS FOR OPTICAL :  
SCANNING OF MULTIPLE :  
SPECIMENS :  
:

This is a decision on the communication filed February 27, 2003. The communication is being treated as a request to accept the Notice of Appeal. A petition fee is not required.

The request is **granted**.

The application was held abandoned for failure to timely respond to the Office action mailed on July 31, 2002.

Petitioner asserts that a response, including a Notice of Appeal, with the appropriate fee and a petition for a three-month extension of time, was mailed on January 31, 2003, to the U.S. Patent and Trademark Office (PTO). To support this assertion, petitioner has submitted, *inter alia*, a copy of the response to the Office action of July 31, 2002 and a copy of a return postcard that properly identifies and acknowledges receipt of the response by the PTO Board of Patent Appeals and Interferences on February 06, 2003.

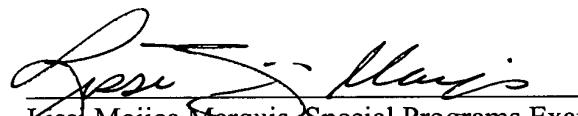
A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." The copy of the response bears a Certificate of Mailing showing a date of deposit of January 31, 2003. Accordingly, it is concluded that the response was timely received in the PTO, but lost after receipt thereof.

For the above stated reason, the application is restored to pending status.

The copy of the response submitted with the instant petition, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components